

Republican
National
Committee

Counsel's Office

September 24, 2004

Jeff S. Jordan, Supervisory Attorney
Complaints Examination & Legal Administration
Office of the General Counsel
Federal Election Commission
999 E St., N.W.
Washington, DC 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
2004 SEP 27 11:30

RE: MUR 5525

Dear Mr. Jordan:

Enclosed please find the Republican National Committee's Response and Statement of Designation of Counsel in the above-captioned matter.

Please do not hesitate to contact me at (202) 863-8638 if you have any questions.

Sincerely,

Jill Holtzman Vogel
Chief Counsel

26044151992

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter Of

The Complaint Filed by
Kerry-Edwards 2004, Inc.
Federal Election Commission

MUR 5525

RESPONSE OF THE REPUBLICAN NATIONAL COMMITTEE
TO THE COMPLAINT OF KERRY-EDWARDS 2004, INC.

This is in response to the Complaint identified as MUR 5525 filed by Kerry-Edwards 2004, Inc. ("Kerry Campaign") against Swift Boat Veterans for Truth and eighteen other various individuals and organizations including the President of the United States and the Republican National Committee ("RNC").

The RNC finds the complaint baseless, both in law and in fact, noting that the Kerry campaign has failed to provide the factual basis for any violations of the Federal Election Campaign Act of 1971, as amended (2 U.S.C. § 431 *et seq.*)(hereinafter "the Act"). Instead the complaint cites only rhetoric and accusations concerning advertisements run by an organization entirely unrelated to the RNC. Specifically, the Kerry Campaign claims that ads run by the organization Swift Boat Veterans for Truth ("SBVT") are fraught with "outrageous lies" from a "sham organization" supported by Republican "operatives"—all political accusations meant to cast aspersions on advertisements adverse to the Kerry Campaign.

As the Kerry Campaign is clearly aware, it is not within the statutory purview of the Federal Election Commission ("FEC" or "Commission") to determine the factual accuracy of any political advertisement. Furthermore, lengthy elaboration on such issues appears merely to cover a lack of substantive claims and a failure to meet the Act's statutory threshold of providing factual substantiation for the allegations of "coordination" and "soliciting and spending soft money" found in the complaint.

A minimum threshold requirement for the Commission to consider such a complaint requires the complainant to allege not only a violation of a provision of the Act as well as the pertinent FEC Regulations, but also to provide underlying facts sufficient to support the allegations. Specifically, the complaint "should contain a clear and concise recitation of the *facts which describe a violation* of a statute or regulation over which the Commission has jurisdiction." 11 C.F.R. § 111.4(d)(3) (emphasis added). This complaint, however, while hyperbolically accusing a variety of prominent individuals and

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entities of violations of the Act, does not provide the requisite threshold facts describing a violation of statute or regulation necessary to justify the initiation of a Commission investigation.

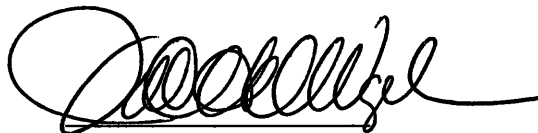
Finally, the attempt by the Kerry Campaign to link the RNC to SWVT is based solely on a quotation from a joint press release issued by the Chairmen of the Bush Campaign and the RNC commenting on the Commission's May 13, 2004 decision to exempt so-called "527 Organizations" from the definition of Federal Political Committees. The context of the statement in the release cited by the Kerry Campaign [Attachment A] is that the Commission had given the "green light" to "all non-federal '527's" to forge full steam ahead in their efforts to affect the outcome of this year's Federal elections."

Under that logic (that the RNC, by stating that the Commission gave the go-ahead to 527s, gave a "signal" to Republican groups to raise money and attempt to influence the presidential election) one must then conclude that because the RNC release referred to "all non-federal 527s" that the RNC was also signaling the *Democrat-leaning* 527s to continue their unprecedented and ongoing campaign against President Bush. This is a preposterous proposition. A mere summary of Commission action in a public press release does not meet the statutory or regulatory requirements to find coordination, namely that a specific expenditure was made at the "request or suggestion" of a candidate or his agent. 2 U.S.C. §441a(a)(7)(B)(i).

The Kerry Campaign similarly fails to substantiate any of its claims that SWVT is "an entity financed, maintained and controlled by the Bush campaign and the Republican Party." The Kerry Campaign cites that SWVT issued a press release including a phone number belonging to Creative Response Concepts. The Kerry Campaign goes further to state that the firm includes the RNC on its web site list of current and former clients. Based upon that web site reference alone, the Kerry Campaign stretches a conclusion that the "media firm is serving as a conduit of information between SBVT and the RNC and the campaign." Again, the allegation is baseless. The RNC is not now, and has not been during this 2003-2004 election cycle, a client of Creative Response Concepts.

Therefore, for the foregoing reasons, the RNC respectfully requests that the Commission act pursuant to 2 U.S.C. 437g(a)(1) and immediately dismiss the Kerry Campaign's complaint against the RNC, find no reason to believe that the RNC violated the Act, and close the file with respect to the RNC as it pertains to MUR 5525.

Respectfully Submitted,



Jill Holtzman Vogel

Chief Counsel

Charles R. Spies

Election Law Counsel

September 24, 2004

Counsel for the Republican National
Committee and Mike Retzer,
as Treasurer

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STATEMENT OF DESIGNATION OF COUNSEL

MUR: 5525

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The above-named individuals are hereby designated as my counsels and are authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

Date: September 24, 2004



Jay Banning, Assistant Treasurer

RESPONDENT'S NAME: Mike Retzer
Treasurer

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